

Appendix A: Ranking Violations¹

The first step in enforcement ranking is determining the relative significance of each violation. The following criteria will be used by the Water Boards to identify and classify significant violations in order to help establish priorities for enforcement efforts.

Class I Priority Violations

Class I priority violations are those violations that pose an immediate and substantial threat to water quality and that have the potential to cause significant detrimental impacts to human health or the environment. Violations involving recalcitrant parties who deliberately avoid compliance with water quality regulations and orders are also considered class I priority violations because they pose a serious threat to the integrity of the Water Boards' regulatory programs.

Class I priority violations include, but are not limited to, the following:

- a. Significant measured or calculated violations with lasting effects on water quality objectives or criteria in the receiving waters;
- b. Violations that result in significant lasting impacts to existing beneficial uses of waters of the State;
- c. Violations that result in significant harm to, or the destruction of, fish or wildlife;
- d. Violations that present an imminent danger to public health;
- e. Unauthorized discharges that pose a significant threat to water quality;
- f. Falsification of information submitted to the Water Boards or intentional withholding of information required by applicable laws, regulations, or enforceable orders;
- g. Violation of a prior enforcement action-- such as a cleanup and abatement order or cease and desist order--that results in an unauthorized discharge of waste or pollutants to water of the State; and
- h. Knowing and willful failure to comply with monitoring requirements as required by applicable laws, regulations, or enforceable orders because of knowledge that monitoring results will reveal violations.

Class II Violations

Class II violations are those violations that pose a moderate, indirect, or cumulative threat to water quality and, therefore, have the potential to cause detrimental impacts on human health and the environment. Negligent or inadvertent noncompliance with water quality regulations that has the potential for causing or allowing the continuation of an unauthorized discharge or obscuring past violations is also a class II violation.

Class II violations include, but are not limited to, the following:

- a. Unauthorized discharges that pose a moderate or cumulative threat to water quality;
- b. Violations of acute or chronic toxicity requirements where the discharge may adversely affect fish or wildlife;
- c. Violations that present a substantial threat to public health;

¹ From page 4 Water Boards' enforcement policy

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

- d. Negligent or inadvertent failure to substantially comply with monitoring requirements as required by applicable laws, regulations, or enforceable orders, such as not taking all the samples required;
- e. Negligent or inadvertent failure to submit information as required by applicable laws, regulations, or an enforceable order where that information is necessary to confirm past compliance or to prevent or curtail an unauthorized discharge;
- f. Violations of compliance schedule dates (e.g., schedule dates for starting construction, completing construction, or attaining final compliance) by 30 days or more from the compliance date specified in an enforceable order;
- g. Failure to pay fees, penalties, or liabilities within 120 days of the due date, unless the discharger has pending a timely petition pursuant to California Water Code section 13320 for review of the fee, penalty, or liability, or a timely request for an alternative payment schedule, filed with the Regional Water Board;
- h. Violations of prior enforcement actions that do not result in an unauthorized discharge of waste or pollutants to waters of the State;
- i. Significant measured or calculated violations of water quality objectives or promulgated water quality criteria in the receiving waters; and
- j. Violations that result in significant demonstrated impacts on existing beneficial uses of waters of the State.

Class III Violations

Class III violations are those violations that pose only a minor threat to water quality and have little or no known potential for causing a detrimental impact on human health and the environment. Class III violations include statutorily required liability for late reporting when such late filings do not result in causing an unauthorized discharge or allowing one to continue. Class III violations should only include violations by dischargers who are first time or infrequent violators and are not part of a pattern of chronic violations.

Class III violations are all violations that are not class I priority or class II violations. Those include, but are not limited to, the following:

- a. Unauthorized discharges that pose a low threat to water quality;
- b. Negligent or inadvertent late submission of information required by applicable laws, regulations, or enforceable orders;
- c. Failure to pay fees, penalties, or liabilities within 30 days of the due date, unless the discharger has pending a timely petition pursuant to California Water Code section 13320 for review of the fee, penalty or liability; or a timely request for an alternative payment schedule, filed with the Regional Water Board;
- d. Any "minor violation" as determined pursuant to California Water Code section 13399 et seq. (see Appendix A. C.1a);
- e. Negligent or inadvertent failure to comply with monitoring requirements when conducting monitoring as required by applicable laws, regulations, or enforceable orders, such as using an incorrect testing method;
- f. Less significant (as compared to class II violations) measured or calculated violations of water quality objectives or promulgated water quality criteria in the receiving waters; and
- g. Violations that result in less significant (as compared to class II violations) demonstrated impacts to existing beneficial uses of waters of the State.